

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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**MICHAEL RUDOLF,**

**Movant,**

**v.**

**SOCIAL SECURITY ADMINISTRATION  
OFFICE OF THE INSPECTOR GENERAL,**

**Respondent.**

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**Civil Action No. 13-3099 (ES)**

**MEMORANDUM  
& ORDER**

**SALAS, DISTRICT JUDGE**

This matter is before the Court on Movant Michael Rudolf’s (“Movant”) Motion for Order Pursuant to Customer Challenge Provisions of the Right to Financial Privacy Act of 1978 pursuant to 12 U.S.C. § 3410. (D.E. No. 1). Movant has received a Customer Notice from Respondent Social Security Administration (“SSA” or “Respondent”) informing him that SSA is seeking “[r]ecords or information concerning . . . financial transactions held by the financial institution named in [an] enclosed subpoena.” (D.E. No. 5 at 2).

Section 3410(a) of the Right to Financial Privacy Act of 1978 (codified at 12 U.S.C. §§ 3401-3422) provides as follows:

Within ten days of service or within fourteen days of mailing of a subpoena [sic], summons, or formal written request, a customer may file . . . an application to enjoin a Government authority from obtaining financial records pursuant to a formal written request, with copies served upon the Government authority. . . . [A]n application to enjoin a Government authority from obtaining records pursuant to a formal written request shall be filed in the appropriate United States district court. Such motion or application shall contain an affidavit or sworn statement

(1) stating that the applicant is a customer of the financial

institution from which financial records pertaining to him have been sought; and

(2) stating the applicant's reasons for believing that the financial records sought are not relevant to the legitimate law enforcement inquiry stated by the Government authority in its notice, or that there has not been substantial compliance with the provisions of this chapter.

Service shall be made under this section upon a Government authority by delivering or mailing by registered or certified mail a copy of the papers to the person, office, or department specified in the notice which the customer has received pursuant to this chapter.

12 U.S.C. § 3410(a). And Section 3410(b) provides that “[i]f the court finds that the customer has complied with subsection (a) of this section, it shall order the Government authority to file a sworn response.” 12 U.S.C. § 3410(b).

First, having considered Movant's submissions, the Court finds that Movant's application was timely filed. On February 10, 2014, pursuant to this Court's order, (D.E. No. 4), Movant submitted to the Court a copy of the Customer Notice, which, as noted above, states that SSA is seeking “[r]ecords or information concerning . . . financial transactions held by the financial institution named in [an] enclosed subpoena.” (D.E. No. 5 at 2). On March 31, 2014, in response to this Court's order, (D.E. No. 7), Movant submitted to the Court a sworn statement attesting that the Customer Notice was neither “served upon . . . nor mailed to” him, but that he “discovered the packet in [his] Mailbox on May 7, 2013.” (D.E. No. 8). Thus, Movant filed the instant application on May 15, 2013, eight days after he discovered the Customer Notice on May 7, 2013.

Second, Movant's application also satisfies the requirements of subsections (1) and (2) of Section 3410(a). Movant provides a sworn statement that he is a customer of Bank of America,

N.A., and that Respondent is seeking his financial records held by this institution. (D.E. No. 1-1). Movant's sworn statement also provides that these records "are not relevant to the legitimate law enforcement inquiry stated in the Customer Notice" because Movant's Bank of America account "was compromised w/out proper notification" and that Movant was "unable to prevent this." (*Id.*). Movant also swears that his "account was closed 12/5/12." (*Id.*).

Finally, Movant's application was properly served upon Respondent. (*See* D.E. No. 1-2).<sup>1</sup> The Court therefore finds that Movant has complied with Section 3410(a).

Accordingly, **IT IS** on this 25th day of April 2014,

**ORDERED** that, by no later than **May 16, 2014**, Respondent shall file a sworn response pursuant to 12 U.S.C. § 3410(b); and it is further

**ORDERED** that Respondent shall mail a copy of its sworn response to Movant via registered or certified mail at the address provided in Movant's submissions filed on the Court's ECF System for this matter; and it is further

**ORDERED** that the Clerk of Court is directed to serve a copy of this Order to Special Agent Michael Cocco, Social Security Administration, Office of the Inspector General, Office of the Inspector General, Office of Investigations, 190 Middlesex Turnpike, Room 401, Iselin, New Jersey 08830.

/s/ Esther Salas  
**Esther Salas, U.S.D.J.**

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<sup>1</sup> Movant provides a certificate of service indicating that he "mailed or delivered a copy of [his application] and sworn statement" to the following organization and address: Social Security Administration, Office of the Inspector General/Office of Investigations, 190 Middlesex, Room 401, Iselin, New Jersey 08830. (D.E. No. 1-2). Movant's certificate of service also indicates that his materials were sent to the attention of Special Agent Michael Cocco. (*Id.*). This is the address provided to Movant in the Customer Notice. (D.E. No. 5 at 3).